

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TERRANCE T. POWELL,

Petitioner,

V.

JOHN GAY,

### Respondent.

Case No. C07-5046RBL-KLS

ORDER DENYING PLAINTIFF'S  
MOTION FOR EXTENSION OF  
TIME AND GRANTING STAY  
OF PROCEEDINGS

This matter is before the Court on petitioner's filing of a motion for extension of time to file a reply to respondent's answer. (Dkt. #15). After reviewing plaintiff's motion, respondent's response thereto and the remaining record, the Court hereby finds and orders as follows:

On May 21, 2007, plaintiff filed his motion requesting an at least 180 day extension of time to file his reply, even though respondent had yet to file his answer. Plaintiff made his request, because he was anticipating being transferred to the Pierce County Jail pending the outcome of being re-sentenced in Pierce County Superior Court pursued to a recently issued Washington State Court of Appeals decision. Plaintiff stated that while at the Pierce County Jail he would not have access to needed legal resources and materials, and that, even if he was still at his present institution, it was likely he would not have enough time to reply to respondent's answer before he was to be transferred.

In his response to plaintiff's motion, respondent agrees petitioner may require an extension of time

1 to prepare and file his reply, but argues 180 days is too long as he likely will be returned to the custody of  
2 the Department of Corrections (“DOC”) much more quickly. As an alternative, respondent suggests the  
3 Court stay his petition and require him to file a status report every 30 days. On June 7, 2007, petitioner  
4 informed the Court that he has been called back to court in the Pierce County Superior Court, although he  
5 does not state whether he has been transferred to the Pierce County Jail. (Dkt. #19).

6 The Court finds petitioner’s request for a 180-day extension of time to be unjustified at this point,  
7 as it is not clear his proceedings in state court will take that long. Nevertheless, the Court shall stay his  
8 petition for that six month period. Although the Court does not find it necessary to receive a status report  
9 every 30 days, petitioner shall inform the Court and respondent by written filing as soon as his sentencing  
10 proceedings in state court are concluded and he is returned to the custody of the DOC. Once the Court is  
11 notified of such occurrence, a new date for petitioner to file his reply shall be set. Petitioner’s motion for  
12 extension of time to file a reply to respondent’s answer (Dkt. #15), therefore, hereby is DENIED, and this  
13 matter hereby is STAYED until December 15, 2007.

14 The Court further notes that while the return address on the envelope containing petitioner’s last  
15 filing lists the Washington Corrections Center located at Shelton, Washington, petitioner has not actually  
16 informed the Court that his addressed has changed. However, it is petitioner’s responsibility to notify the  
17 Court within 10 days of such a change. Local Rule CR 10(f); see also Local Rule CR 41 (party proceeding  
18 pro se shall keep court and opposing parties advised as to his current address). Petitioner thus must keep  
19 both the Court and respondent informed as to any such future change. In the meantime, the Court shall  
20 treat the Washington Corrections Center address as his last known address.

21 The Clerk shall send a copy of this Order to petitioner and counsel for respondent.

22 DATED this 15th day of June, 2007.

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25   
26 Karen L. Strombom  
27 United States Magistrate Judge  
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